

# **EXHIBIT 11**

**From:** [Frank, Noah S.](#)  
**To:** [Brandon Allen](#); [Adi Sirkes](#); [Adam Steinmetz](#); [Elizabeth Wilkerson](#); [Chris Reynolds](#); [Nathan Smith](#); [Christopher Ryan](#); [Graves, Charles Tait](#); [Marisol Ellis](#); [Alex Meir](#); [Mason Malone](#); [Jim Weiss](#)  
**Cc:** [IBM LzLabs Service](#); [Deron Dacus](#); [Heffernan, Jeannie](#); [Merideth, Vicki](#); [#IBM\\_LzLabs](#); [Mekbib Solomon](#)  
**Subject:** RE: IBM v. LzLabs - IBM 30(b)(6) Designees  
**Date:** Monday, April 1, 2024 12:17:09 PM  
**Attachments:** [image001.png](#)

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Counsel,

Please let us know by COB today whether Defendants intent to proceed with Ms. Mogensen's deposition subject to the conditions in my prior emails.

Regards,

**Noah Frank**

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**From:** Frank, Noah S. <[noah.frank@kirkland.com](mailto:noah.frank@kirkland.com)>

**Sent:** Friday, March 29, 2024 10:02 AM

**To:** Brandon Allen <[BAllen@reynoldsfrizzell.com](mailto:BAllen@reynoldsfrizzell.com)>; Adi Sirkes <[asirkes@reynoldsfrizzell.com](mailto:asirkes@reynoldsfrizzell.com)>; Adam Steinmetz <[asteinmetz@desmaraisllp.com](mailto:asteinmetz@desmaraisllp.com)>; \*[ewilkerson@reynoldsfrizzell.com](mailto:ewilkerson@reynoldsfrizzell.com)>; [ewilkerson@reynoldsfrizzell.com](mailto:ewilkerson@reynoldsfrizzell.com)>; Chris Reynolds <[CReynolds@reynoldsfrizzell.com](mailto:CReynolds@reynoldsfrizzell.com)>; Nathan Smith <[NSmith@reynoldsfrizzell.com](mailto:NSmith@reynoldsfrizzell.com)>; Christopher Ryan <[chris.ryan@ryaniplaw.com](mailto:chris.ryan@ryaniplaw.com)>; Graves, Charles Tait <[tgraves@wsgr.com](mailto:tgraves@wsgr.com)>; Marisol Ellis <[mellis@reynoldsfrizzell.com](mailto:mellis@reynoldsfrizzell.com)>; Alex Meir <[ameir@reynoldsfrizzell.com](mailto:ameir@reynoldsfrizzell.com)>; Mason Malone <[mmalone@reynoldsfrizzell.com](mailto:mmalone@reynoldsfrizzell.com)>; Jim Weiss <[JWeiss@reynoldsfrizzell.com](mailto:JWeiss@reynoldsfrizzell.com)>

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**Subject:** RE: IBM v. LzLabs - IBM 30(b)(6) Designees

Yes, that is the case with all of IBM's corporate representatives.

**Noah Frank**

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**From:** Brandon Allen <[BAllen@reynoldsfrizzell.com](mailto:BAllen@reynoldsfrizzell.com)>

**Sent:** Friday, March 29, 2024 9:51 AM

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**Subject:** Re: IBM v. LzLabs - IBM 30(b)(6) Designees

Thanks for letting us know, Noah. Is the same true with regard to the other IBM corporate representatives?

**Brandon T. Allen**

(713) 485-7206



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**From:** Frank, Noah S. <[noah.frank@kirkland.com](mailto:noah.frank@kirkland.com)>

**Date:** Friday, March 29, 2024 at 8:45 AM

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**Subject:** RE: IBM v. LzLabs - IBM 30(b)(6) Designees

Adi,

In regard to Ms. Mogensen's deposition, we are fine with you taking it via Zoom. However, we will only be putting up Ms. Mogensen once. If you take issue with our objections or the scope of Topics 58 and 59 we are available to meet and confer prior to Ms. Mogensen's deposition. But Defendants may not proceed with Ms. Mogensen's deposition while "reserving their objections."

Regards,

**Noah Frank**

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**From:** Adi Sirkes <[asirkes@reynoldsfrizzell.com](mailto:asirkes@reynoldsfrizzell.com)>

**Sent:** Thursday, March 28, 2024 8:12 PM

**To:** Adam Steinmetz <[asteinmetz@desmaraisllp.com](mailto:asteinmetz@desmaraisllp.com)>; \*[ewilkerson@reynoldsfrizzell.com](mailto:ewilkerson@reynoldsfrizzell.com)> <[ewilkerson@reynoldsfrizzell.com](mailto:ewilkerson@reynoldsfrizzell.com)>; Brandon Allen <[BAllen@reynoldsfrizzell.com](mailto:BAllen@reynoldsfrizzell.com)>; Chris Reynolds <[CReynolds@reynoldsfrizzell.com](mailto:CReynolds@reynoldsfrizzell.com)>; Nathan Smith <[NSmith@reynoldsfrizzell.com](mailto:NSmith@reynoldsfrizzell.com)>; Christopher Ryan <[chris.ryan@ryaniplaw.com](mailto:chris.ryan@ryaniplaw.com)>; Graves, Charles Tait <[tgraves@wsgr.com](mailto:tgraves@wsgr.com)>; Marisol Ellis <[mellis@reynoldsfrizzell.com](mailto:mellis@reynoldsfrizzell.com)>; Alex Meir <[ameir@reynoldsfrizzell.com](mailto:ameir@reynoldsfrizzell.com)>; Mason Malone <[mmalone@reynoldsfrizzell.com](mailto:mmalone@reynoldsfrizzell.com)>; Jim Weiss <[JWeiss@reynoldsfrizzell.com](mailto:JWeiss@reynoldsfrizzell.com)>

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**Subject:** RE: IBM v. LzLabs - IBM 30(b)(6) Designees

Adam,

In response to your question below and a few other related discovery issues, which are spread across other e-mail chains:

First, we wanted to give you a heads-up that in Texas, Good Friday is a "legal holiday" for

purposes of calculating deadlines under Rule 6. *See* Fed. R. Civ. P. 6(a)(6)(C), <https://comptroller.texas.gov/about/holidays.php>, *see also* *Barrera v. Allstate Ins. Co.*, No. DR-16-CV-0037-AM-VRG, 2017 WL 3274469, at \*5 (W.D. Tex. Mar. 6, 2017). Accordingly, Defendants will file their reply in support of their motion for protection and for a new scheduling order/response to IBM's motion to compel on Monday. Likewise, Chris Ryan will serve his objections and responses to your subpoena duces tecum on Monday. Again, we just wanted to let you know in case this was not on your radar.

Second, we informed your experts last week and reminded them again yesterday, but as a reminder, our offices will be closed tomorrow for Good Friday.

Third, with regard to your offer yesterday concerning Ms. Mogensen as an IBM Corporate Representative on Topics 58 and 59: Yes, we are available to proceed on that date. One question: Would it be possible to do this deposition via Zoom? We think we understand what you are saying concerning her designation on Topics 58 and 59, but we do want to be sure. We understand that IBM is presenting her consistent with IBM's objection to Topic 58 and consistent with the description in your e-mail with regard to Topic 59, with both sides reserving their objections/positions as to the propriety of those objections. To be clear, Defendants do not agree with IBM's stated objections.

Fourth, with regard to Tuesday's offer of Mr. Anzani as an IBM Corporate Representative and your designation of topics a bit earlier today: In offering the date, we assume this will not present problems for Mr. Anzani in connection with whatever his UK-case related responsibilities might be. If giving his deposition now would interfere with those responsibilities, we are also content to wait until after the UK trial ends. We assume that both sides reserve their objections/positions as to the propriety of the objections. Again, Defendants do not agree with IBM's stated objections.

Fifth, with regard to Chris Ryan's deposition: Given the date (April 10) offered with regard to IBM Corporate Representative topics Mr. Anzani plans to cover, we need to find a new date for Chris Ryan's deposition. On the current date (April 10), he will be in your offices attending the IBM Corporate Representative Deposition mentioned above. He is available to be deposed in our offices in Houston on April 17, 18, or 19, whichever of those dates works best for you, although we may need to coordinate that with some of the people you mentioned in your e-mail below. He will be available to promptly meet and confer on any remaining document issues pertaining to IBM's subpoena of him after Monday.

Sixth, attached are JMI's objections and responses to IBM's corporate representative deposition notice.

Seventh, we will aim to get back to you by Monday with regard to your e-mail below. We don't foresee a problem on getting you an answer by then, but given the holidays, it may be Tuesday.

Eight, pursuant to the Protective Order, Defendants disclose Scott Bayley as an outside consultant to whom we intend to disclose DESIGNATED MATERIAL (except for source code). Attached are Mr. Bayley's signed undertaking and CV, which also includes his list of prior testimony.

Finally, a supplement to Rog 8 will follow next Friday given our team's focus recently on

document productions for the substantial completion deadline and other discovery issues.

Thanks,  
Adi

## Adi Sirkes

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**From:** Adam Steinmetz <[asteinmetz@desmaraisllp.com](mailto:asteinmetz@desmaraisllp.com)>

**Sent:** Thursday, March 28, 2024 4:12 PM

**To:** Adi Sirkes <[asirkes@reynoldsfrizzell.com](mailto:asirkes@reynoldsfrizzell.com)>; Elizabeth Wilkerson <[ewilkerson@reynoldsfrizzell.com](mailto:ewilkerson@reynoldsfrizzell.com)>; Brandon Allen <[BAllen@reynoldsfrizzell.com](mailto:BAllen@reynoldsfrizzell.com)>; Chris Reynolds <[CReynolds@reynoldsfrizzell.com](mailto:CReynolds@reynoldsfrizzell.com)>; Nathan Smith <[NSmith@reynoldsfrizzell.com](mailto:NSmith@reynoldsfrizzell.com)>; Christopher Ryan <[chris.ryan@ryaniplaw.com](mailto:chris.ryan@ryaniplaw.com)>; Graves, Charles Tait <[tgraves@wsgr.com](mailto:tgraves@wsgr.com)>; Marisol Ellis <[mellis@reynoldsfrizzell.com](mailto:mellis@reynoldsfrizzell.com)>; Alex Meir <[ameir@reynoldsfrizzell.com](mailto:ameir@reynoldsfrizzell.com)>; Mason Malone <[mmalone@reynoldsfrizzell.com](mailto:mmalone@reynoldsfrizzell.com)>; Jim Weiss <[JWeiss@reynoldsfrizzell.com](mailto:JWeiss@reynoldsfrizzell.com)>

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**Subject:** IBM v. LzLabs - IBM 30(b)(6) Designees

Counsel,

Further to my email from earlier this week, IBM intends to designate Mark Anzani for the following topics in Defendants' 30(b)(6) Notice: 5, 7, 18, 21, 22, 26, 27, 28, 29, 30, 34, 35, 36, 38, 39, 42, 43, 44, 45, 48, 49, 50, 54, 63, 66, 67, and 68. Again, please confirm immediately whether you intend to proceed with Mr. Anzani's deposition on April 10, 2024 in New York.

Additionally, the following is the availability of additional IBM Rule 30(b)(6) designees:

<b><u>30(b)(6) Designee</u></b>	<b><u>Available Date</u></b>	<b><u>Location</u></b>	<b><u>Topics</u></b>
Reid Copeland	4/17/24	Richmond Hill, Ontario	14 ('289 and '420 patents), 15 ('289 and '420 patents), 47 (COBOL)

			55 ('289 and '420 patents)
Shawn Lundvall	4/23/24	Richmond, Virginia	14 ('664 and '823 patents), 15 ('664 and '823 patents), 55 ('664 and '823 patents)
Steve Wallin	4/26/24	New York, NY	8, 9, 25, 47 (CICS), 57
Peter Elderon	5/1/24	Spokane, WA	47 (PL/I)

As IBM's designees are holding these dates, please confirm by no later than Monday April 1, 2024 whether you intend to proceed on the provided dates.

Regards,

**Adam Steinmetz**

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